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June 13, 2006

VIA MESSENGER

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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JUN 13 2006

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Federal Communications Commission
Office of Secretary

Re: *Ex Parte* Submission
RM-10968; MB Docket No. 04-184; In re Amendment of Section 73.622(b), Table of
Allotments, Digital Television Broadcast Stations (Norwich, Connecticut)
FCC File Nos. BMPEDT-20031008AAT and BPEDT-19990133KG

Dear Ms. Dortch:

On June 12, 2006, American Broadcasting Companies, Inc. ("ABC"), licensee of station WABC-TV, New York, NY and permittee of WABC-DT, New York, NY filed a letter in the above-referenced rulemaking and application proceedings before the Federal Communications Commission. At the time of filing, the engineering support for that letter inadvertently was omitted. Accordingly, ABC now is re-filing the letter with the associated engineering documents.

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Please direct any inquiries concerning this matter to the undersigned.

Respectfully submitted,



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Federal Communications Commission
Office of Secretary

Marlene H. Dortch
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445 12th St., S.W.
Washington, DC 20054

Re: *Ex Parte* Submission
RM-10968; MB Docket No. 04-184; In re Amendment of Section 73.622(b), Table of
Allotments, Digital Television Broadcast Stations (Norwich, Connecticut)
FCC File Nos. BMPEDT-20031008AAT and BPEDT-19990133KG

Dear Ms. Dortch:

This letter is filed on behalf of American Broadcasting Companies, Inc. ("ABC"), licensee of station WABC-TV, New York, NY and permittee of WABC-DT, New York, NY ("WABC") in the above-referenced rulemaking and application proceedings before the Federal Communications Commission ("FCC" or "Commission"). WABC initially elected channel 7 as its post-transition DTV channel but later elected its allotted DTV channel 45 due to an alleged interference conflict with the channel 7 election. At the time of making this alternative election of channel 45, WABC also filed an Emergency Request for Waiver that would permit it to use channel 7. This Emergency Request for Waiver remains pending. WABC reiterates here that it would prefer channel 7 as its post-transition DTV channel; however, through this and other pleadings, WABC is preserving its rights to channel 45 in the event that the Emergency Request for Waiver is denied.

Introduction

In the rulemaking proceeding, station WEDN(TV), Norwich, Connecticut ("WEDN") seeks to replace its allotted digital television ("DTV") channel of 45 with DTV channel 9 ("Rulemaking Proposal"). In the application proceeding, WEDN seeks to exchange DTV channel 45 with station WEDH(TV), Hartford, Connecticut ("WEDH") for WEDH's DTV

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channel 32 ("Channel Exchange").¹ Both WEDN and WEDH are licensed to Connecticut Public Broadcasting, Inc. ("CPBI"). Despite the fact that the FCC had not acted in either of these proceedings, WEDH(TV) elected channel 45 as its post-transition DTV channel ("WEDH Channel Election").² WABC previously submitted pleadings to the FCC regarding the Channel Exchange and Channel Election.³ In response to CPBI's May 23, 2006 *ex parte* presentation to the FCC regarding the WEDH Channel Election, WABC (NTSC channel 7 and DTV channel 45) urges the Commission to consider the following information.

1. The FCC's 0.1% Interference Standard Applies to the WEDH Channel Election

In the *2004 Second Periodic Review Order*, the FCC stated that it would "afford the highest priority in the allotment process to maintaining *existing* DTV allotments."⁴ The practical consequence of this preference for DTV channel elections was that the FCC generally would accept the election of a station electing its allotted digital channel without regard to the 0.1% additional interference standard that applied in all other cases. The 0.1% standard—and not the relaxed interference standard—applies to WEDH's election of channel 45.

Channel 45 is not WEDH's "existing" DTV allotment. WEDH's existing DTV allotment is channel 32. The FCC never has allocated DTV channel 45 to Hartford by rulemaking and the Channel Exchange proposal for WEDH to "swap" DTV channel 32 with WEDN for channel 45 remains pending. WEDH has no present claim to channel 45. Thus, the relaxed interference standard would apply to WEDH only if it elected its existing DTV channel of 32 and WEDH's alternative election of channel 45 is subject to the generally-applicable 0.1% interference standard. In order to approve the WEDH Channel Election, the FCC must find that WEDH's DTV operations on channel 45 would cause no more than 0.1% additional interference to other station operations, including WABC on DTV channel 45 and WUVN(TV), Hartford, CT ("WUVN") on DTV channel 46.

¹ See FCC File Nos. BNPEDT-20031008AAT (WEDN) and BPEDT-19990133KG (WEDH).

² See FCC File No. BFREET-20050209ACP.

³ See, e.g., Objection to Digital Television Channel Allotment Exchange (filed Jan. 15, 2004); Supplement to Objection (filed Sep. 9, 2005).

⁴ See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 19 FCC Rcd 18,279, at ¶46 (2004) ("*2004 Second Periodic Review Order*") (emphasis added).

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Moreover, there is no basis to waive application of the 0.1% standard because the policy reason behind the more relaxed interference standard—to allow stations to minimize costs—is not present in this case. Specifically, the reason for applying the more relaxed standard was the FCC's belief that "a station that ends up keeping its in-core DTV channel as its final allotment might not have to incur any additional construction expenses."⁵ WEDH has not built, and does not have the authority to build, any digital facilities on channel 45. Thus, approval of WEDH's election of channel 45 would not minimize or otherwise reduce WEDH's costs of DTV buildout. Accordingly, there is no policy reason supporting the application of the more relaxed interference standard to WEDH.

For the reasons set forth above, it is clear that the 0.1% standard applies to WEDH's election of channel 45. As WEDH acknowledged in a May 19, 2006 *ex parte* meeting, its channel 45 facilities cannot satisfy the 0.1% interference standard with respect to WUVN or WABC. Therefore, the Commission should deny WEDH's request for channel 45.

2. If the FCC Grants the Rulemaking Proposal, it Must Deny the Channel Exchange Because WEDN No Longer Would Have Any Rights to Channel 45.

In its Rulemaking Proposal, WEDN seeks the substitution of DTV channel 9 for DTV channel 45 at Norwich. If the FCC grants this request, WEDN no longer would have any rights to channel 45. In effect, channel 45 would be deleted from the DTV Table of Allotments upon grant of the Rulemaking Proposal. Because WEDN would have no rights to channel 45, it could not exchange channel 45 with WEDH for channel 32. Therefore, if the FCC grants the Rulemaking Proposal, it must deny the Channel Exchange.

⁵ 2004 Second Periodic Review Order, at ¶46.

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3. WEDH's Predicted Additional Interference to WUVN is 3.82%, Which Exceeds Both the 0.1% and 2.0% Interference Standards⁶

WEDH's operation of its proposed maximized DTV facilities ("Maximized CP") would cause a 3.82% net increase in interference to WUVN. As shown below, ABC's calculation of this interference does not "double count" or otherwise misrepresent the level of interference, as suggested by CPBI. WEDN's licensed facility on DTV channel 45 in Norwich presently causes 5.09% predicted interference to WUVN.⁷ This interference should be considered the reference interference level to WUVN because it is the result of the original allotment table established in 1997. WEDH's operation on DTV channel 45 would cause a predicted population loss of 305,298 or 8.91% interference to WUVN.⁸ Because WUVN already suffered 5.09% predicted interference from WEDN on DTV channel 45, the net increase in interference to WUVN is 3.82% (8.91% less 5.09%).⁹ This amount of new interference exceeds both the 0.1% interference standard applicable to channel elections and the 2% *de minimis* standard applicable to channel exchanges under Sections 73.622(c)(1) and 73.623(c)(2).¹⁰

⁶ For purposes of this interference analysis, WABC conducted studies using the Longley-Rice method and the TV_Process method. In the interest of clarity and consistency, Longley-Rice interference data is reported in the body of this letter and in the attached figures while TV_Process data is reported in the footnotes. The TV_Process data for WEDH-D45 is based on the 465 kW facility set forth in its application. WABC believes that the FCC's TV_Process database incorrectly contains an entry for WEDH-D45 using 200 kW, which is the ERP for the D45 facility for Norwich station WEDN.

⁷ See Exhibit 1 (depicting in red interference to 174,548 persons out of a baseline population of 3,251,757). Existing interference using TV_Process is 0.7%. These interference calculations assume that WEDH is operating on a channel other than 45.

⁸ See Exhibit 2 (depicting in red interference to 305,298 persons out of a baseline population of 3,121,149). Interference from WEDH-D45 to WUVN using TV_Process is 3.0%. These interference calculations assume that WEDN is operating on a channel other than 45.

⁹ The net increase in interference using TV_Process is 2.3% (3.0% less 0.7%).

¹⁰ The amount of new interference, along with other factors, distinguishes this case from a previous proceeding in which WABC objected to predicted interference from Albany, NY station WXXA-DT. In the Albany case, WABC's predicted loss was approximately 45,000 persons in its analog service area, which did not exceed the 2% threshold. In this case, the predicted loss is much greater and would exceed the 2% threshold. Further discussion of the ways in which the Albany case differs from the present scenario is provided in WABC's Supplement to Objection, filed Sep. 2, 2005, at pages 10-11.

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4. The Commission Should Consider Authorizing WEDH to Build DTV Facilities that Closely Replicate Facilities Authorized in WEDH's Analog Construction Permit

WEDH presently has a pending application for a DTV construction permit to build maximized DTV facilities ("Maximized DTV CP").¹¹ These maximized facilities would permit WEDH to expand its coverage contour far beyond the contour of WEDH's licensed analog facilities ("Analog License").¹² WEDH also holds an analog construction permit ("Analog CP") for facilities that could serve more viewers than presently served under its Analog License but fewer viewers than would be served by its Maximized DTV CP facilities.¹³ If WEDH built DTV channel 45 facilities under the Maximized DTV CP, it would cause 8.91% total or 3.82% new predicted interference to WUVN.¹⁴ However, if WEDH instead built DTV facilities that closely replicated its Analog CP facilities, it would cause only 0.3% total interference to WUVN. This compromise approach should appeal to WEDH because it would permit WEDH to expand its digital coverage beyond its Analog License while causing less interference to WABC and WUVN than the current CPBI proposal. The 0.3% interference to WUVN resulting from this replication operation would be a significant reduction in interference from the 5.09% interference presently resulting from WEDH's operations on DTV channel 45. The replication facilities would cause approximately 0.4% interference to WABC, which is in excess of the FCC's 0.1% threshold; however, WABC is willing to consider accepting this interference in the interest of compromise. Accordingly, any FCC consideration of the award of channel 45 to WEDH as its post-transition DTV channel should be conditioned on WEDH building DTV facilities that replicate or closely replicate the facilities authorized in WEDH's Analog CP.

¹¹ BPEDT-19990113KG (amended Mar. 17, 2004).

¹² See Exhibit 3 (depicting contour of Maximized DTV CP facilities in blue versus contour of Analog License facilities in black).

¹³ See BPET-20040715ACJ (granted Mar. 8, 2005). See Exhibit 3 (depicting contour of Analog CP facilities in purple versus contour of Analog License facilities in black and contour of Maximized DTV CP facilities in blue).

¹⁴ Using TV_Process, total interference is 3.2% and new interference is 2.3%.

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5. WEDH Could Operate DTV Facilities on Channel 32

WABC believes that WEDH could operate DTV facilities on its presently-assigned DTV channel of 32 in Hartford despite other nearby stations operating on channels close to 32. WFSB(TV), Hartford, Connecticut ("WFSB") initially was allotted DTV channel 11 but subsequently petitioned for and was assigned DTV channel 33. Stations WEDH and WFSB, though assigned first-adjacent DTV channels, could have operated with minimal interference because they were virtually co-located (approximately 90 meters separated the two stations' towers). However, WEDH's later attempt to move its operations away from WFSB changed this situation for the worse. Specifically, when another Hartford station, WTIC-TV ("WTIC") obtained DTV channel 31,¹⁵ WEDH applied to relocate its channel 32 facilities to the WTIC tower.¹⁶ This would have reduced the potential interference between WEDH and WTIC but would have exacerbated interference between WEDH and WFSB because they no longer would be virtually co-located (WEDH, if it moved, would be approximately five miles away from WFSB). WFSB objected to WEDH's relocation proposal and the FCC did not grant the proposal, presumably because of impermissible interference to WFSB.¹⁷ The interference to WFSB would not occur if WEDH operated channel 32 DTV facilities at the prior location, co-located with WFSB. Thus, another acceptable solution for WEDH would be to operate on channel 32 at a site co-located with WFSB.

¹⁵ At the request of Fox Television Stations, Inc., licensee of WNYW(TV), New York, New York, the FCC approved the substitution of DTV channel 31 for DTV channel 5 for Station WTIC and the DTV Table of Allotments was amended accordingly. See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Hartford, Connecticut), 18 FCC Rcd 93 (MB 2003).

¹⁶ WEDH's Maximized DTV CP proposal requests the same site, co-located with WTIC.

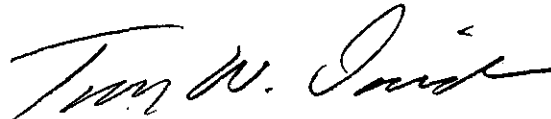
¹⁷ WFSB is a protected station; because it already receives over 10% interference in the aggregate, no additional interference is permissible under Section 73.623(c)(2).

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Conclusion

As shown herein and in previous pleadings, WEDH's proposed operations on channel 45 would cause impermissible interference to WUVN and/or WABC under the 0.1% and 2.0% interference standards. Accordingly, WABC urges the Commission not to award channel 45 to WEDH for its post-transition DTV channel or, in the alternative, to condition such an award on WEDH building channel 45 facilities that replicate or closely replicate WEDH's Analog CP.

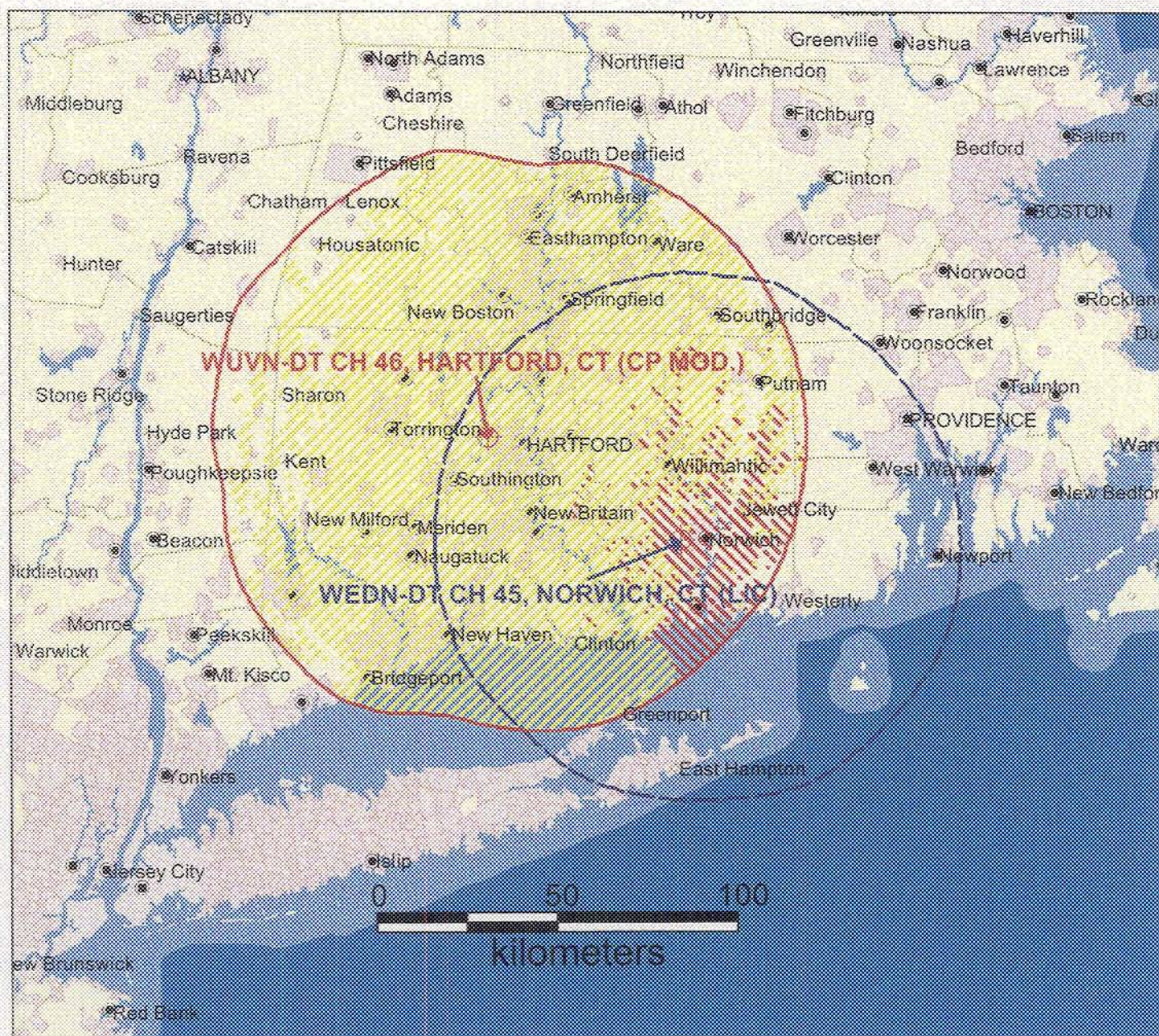
Respectfully submitted,



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Barry Friedman, counsel to Entravision, Inc.
Kevin P. Latek, counsel to Meredith Corp.
Mark J. Prak, counsel to Hearst-Argyle Properties, Inc.



PREDICTED COVERAGE CONTOURS
WUVN-DT Ch 46, HARTFORD, CT
 217 kW, 269 mHAAT, 354 mRCAMSL, NON D-ANT

Predicted Noise Limited Contour
 F(50,90) 41 dBu

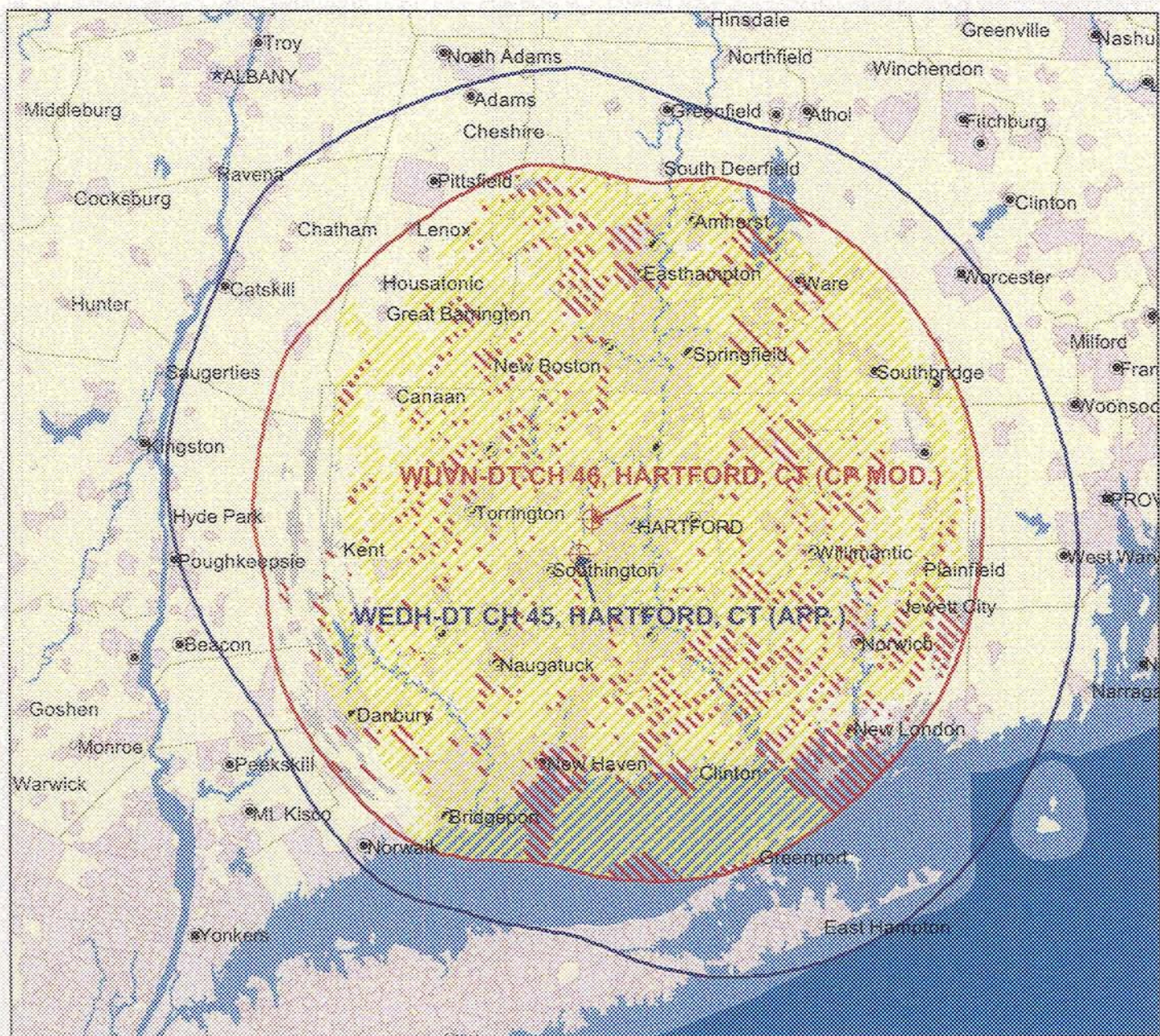
WUVN-DT Coverage
 Area: 15,050 Sq. Km
 Pop Count: 3,251,757

WEDN-DT CH. 45, NORWICH, CT (LIC.)
 Predicted Noise Limited Contour
 F(50,90) 41 dBu, 200 kW, 192 m HAAT,
 248 m RCAMSL, DIE 42918 D-ANT

WUVN-DT Loss to Interference
 Area: 1,396 Sq. Km
 Pop Count: 174,548

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PREDICTED COVERAGE CONTOURS
WUVN-DT Ch 46, HARTFORD, CT
217 kW, 269 mHAAT, 354 mRCAMSL, NON D-ANT

Predicted Noise Limited Contour
 F(50,90) 41 dBu

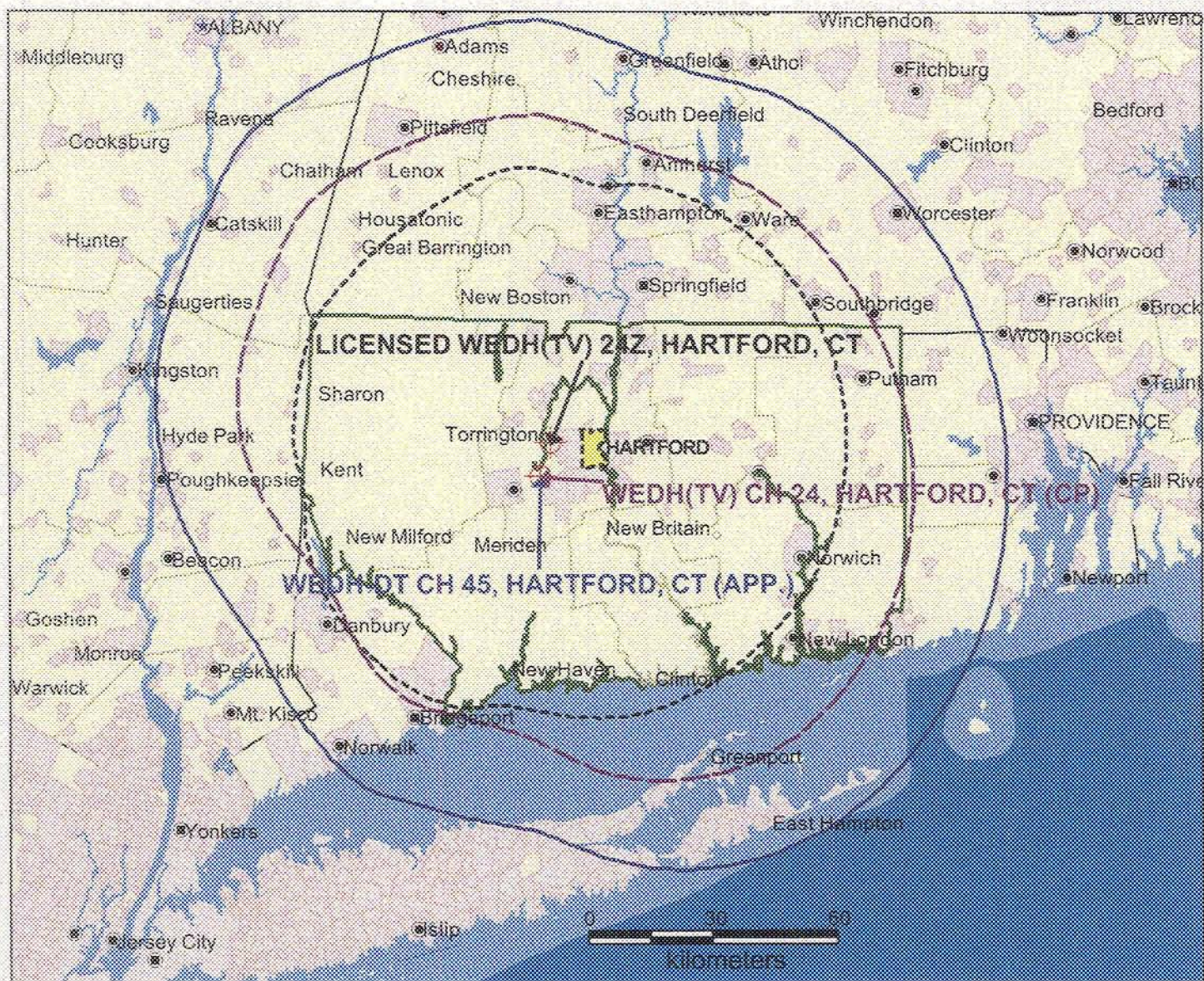
WUVN-DT Coverage
 Area: 14,440 Sq. Km
 Pop Count: 3,121,149

WEDH-DT ON CH. 45, HARTFORD, CT (APP.)
 Predicted Noise Limited Contour
 F(50,90) 41 dBu, 465 kW, 505 m HAAT,
 604 m RCAMSL, 65933 D-ANT

WUVN-DT Loss to Interference
 Area: 2,007 Sq. Km
 Pop Count: 305,298

JUNE 2006

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PREDICTED COVERAGE CONTOURS

Licensed WEDH(TV) Ch 24Z, HARTFORD, CT
813 kW- 262 mHAAT, 359 mRCAMSL - NON D-ANT

Licensed WEDH(TV) Ch 24Z
Predicted Grade B Coverage
F(50,50) , 64 dBu
Area: 13,720 Sq. km.
Pop Count: 2,998,628

WEDH(TV) Ch 24Z (CP)
Predicted Grade B Coverage
F(50,50) , 64 dBu, 1200 kW, 517 mHAAT
616 mRCAMSL, 67104 D-ANT

WEDH-DT ON CH. 45, HARTFORD, CT (APP.)
Predicted Noise Limited Contour
F(50,90) , 41 dBu , 465 kW, 505 m HAAT,
604 m RCAMSL, 65933 D-ANT
Area: 31,470 Sq. km.
Pop Count: 4,925,956

JUNE 2006

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